

### REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed November 12, 2009 and the Advisory Action mailed February 25, 2010. At the time of the Final Office Action, Claims 29-55 were pending in this Application. Claims 29-55 were rejected. Claims 29 and 30 have been amended and new claims 56 - 58 have been added. Claims 1-28 were previously cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

#### **Rejections under 35 U.S.C. § 102**

Claims 29-36 and 39 stand rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,953,506 issued to Devendra Kalra et al. ("*Kalra*"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The Examiner maintains his rejection from the previously issued final office action. In the Advisory Action the Examiner further explains his rationale for maintaining the rejection. Applicant respectfully disagrees.

Applicant amended independent claim 29 to distinguish the present invention from *Kalra*. According to the amended claim 29, the plurality of variants is created before the first communication device is informed. Thus, the switching component prepares a plurality of different variants and stores them for later delivery. Then, the first communication device is informed with a delivery request message that a plurality of variants are available and can be

forwarded to the first communication device by the switching component along with the transmission request. This feature is disclosed in the originally submitted specification, for example on page 4, paragraph [0004]. Thus, no new matter has been introduced.

*Kalra* does not disclose to transmit a delivery request message from which a user later can select only those formats he wishes to download. The Examiner stated in particular, that a selection process is provided by the management module 20 as for example shown in *Kalra's* Fig. 2B. Applicant respectfully disagrees. No selection of a plurality of variants exists in *Kalra*. Rather the stream management module 20 creates only those variants that are stored in a profile and sends all these formats to the client. *Kalra* does not teach to first create different variants and then transmit a delivery request message to the user as claimed.

Furthermore, Applicant submits new claim 56 which includes all the limitations of claim 29 and the additional limitation that the plurality of variants also includes an unaltered version. This limitation is disclosed in the originally submitted specification, for example, on page 4, paragraph [0004], line 8-9. Thus, no new matter has been introduced. *Kalra* does not include the original version of a data object in his variants because *Kalra* operates on specific video streams. Claims 57 include similar limitations as claim 56 and is drafted as an apparatus claim directed to a system. Claim 58 includes similar limitations as claims 29 and 30 and is drafted as an apparatus claim directed to a telecommunication device. Thus, no new matter has been introduced.

In summary, amended independent claim 29 is clearly not anticipated by *Kalra*. Independent claims 56 and 57 are patentable for at least the same reasons as independent claim 29. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102 or §103(a), if necessary, and do not concede that the Examiner's proposed rejections and/or combinations are proper.

### CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants authorize the Commissioner to charge \$810.00 for the Request for Continued Examination fee.

Applicants also respectfully submit a Petition for Two-Month Extension of Time. The Commissioner is authorized to charge the fee of \$490.00 required to Deposit Account 50-4871 in order to effectuate this filing.

Applicants believe there are no other fees due at this time. However, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512-457-2025.

Respectfully submitted,  
KING & SPALDING LLP  
Attorney for Applicants



Andreas H. Grubert  
Registration No. 59,143

Date: April 6, 2010

SEND CORRESPONDENCE TO:

KING & SPALDING L.L.P.

CUSTOMER ACCOUNT NO. **86528**

512-457-2025

512-457-2100 (fax)